

*Reforming Environment & Energy
Regulation in Ontario*



Responsive Environmental Protection

H I G H L I G H T S



Minister's message

Dear fellow Ontarians:

The Common Sense Revolution outlines the Ontario government's plan for creating jobs and restoring the economic vitality of our province.

Central to this plan is the removal of government barriers to job creation, investment and economic growth. The Ministry of Environment and Energy has a role to play in this respect.

It makes no sense to have rules or regulations which discourage pollution prevention activities.

Companies should not have to report on substances they do not produce.

Plants should not need to obtain dozens of Certificates of Approval if one would suffice.

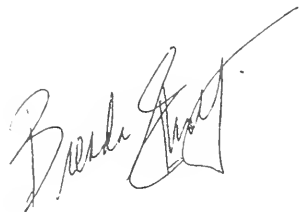
This review aims to remove such barriers, which represent lost opportunities for environmental improvement and economic growth. Every dollar we save eliminating red tape is a dollar that can be put toward environmental protection.

This consultation paper reflects nine months of discussion with industry, municipalities and other groups. During those months,

we heard time and time again about the importance of a healthy environment and a strong economy...and how the two go hand in hand.

We are now releasing a set of proposed reforms for your consideration. On page 11, you will find information on how you can participate.

Your views and ideas are important to us. They will help the ministry meet its challenge of protecting the environment, creating jobs and ensuring a more prosperous Ontario for the generations to come.



Highlights



Every dollar wasted on obsolete or redundant processes is a dollar that could be spent protecting our environment. And, every dollar industry and municipalities save on the elimination of red tape, is a dollar to invest in job creation. Today, providing more responsive environmental protection means:

- focusing on environmental priorities to become more results oriented, cost-effective and customer driven;
- providing the flexibility and certainty industry needs to ensure jobs and economic growth;
- simplifying rules and eliminating red tape encountered by individuals, municipalities and business;
- replacing outdated approaches with new cost-effective alternatives more in tune with global trends; and,
- encouraging greater local government and private sector involvement in finding solutions that protect the environment as well as the health and safety of their communities.

If Ontario is to continue to enjoy some of the highest environmental and economic standards in the world, we will need to rethink the way we design our regulations and the way we deliver programs and services. This consultation paper outlines over 80 proposals to reform the 80 environment and energy regulations in Ontario to make them more responsive to the demands of the 90's — and beyond. Highlights of these reform proposals follow.

AIR QUALITY

Ontario's 20 air regulations are a mix of general (e.g. *General Air Regulation* 346) and issue-specific regulations (e.g. ozone depleting substances). The Ministry proposes to consolidate the 20 air regulations to 4 by:

- 1 Consolidating all provincial air quality standards into a single *General Air Regulation*; consolidating five ozone depleting substances regulations into one regulation; consolidating four acid rain regulations into one regulation and consolidating three vehicles and fuels regulations into a single regulation.
- 2 Revoking the *Air Contaminants from Ferrous Foundries Regulation* (Reg. 336) and the *Sulphur Content of Fuels Regulation* (Reg. 361) as they have been superseded by the *General Air Regulation* (Reg. 346) and the *Boilers Regulation* (Reg. 338).
- 3 Harmonizing: federal-provincial requirements regulating the production of ozone depleting substances by eliminating overlapping production requirements from provincial regulation; federal/provincial regulatory activities on vehicle pollution control and fuel quality with the federal government and the Ministry of Consumer and Commercial Relations; and, federal-provincial air quality reporting activities. Harmonization not only simplifies the system at less cost, it will ensure better and more coordinated environmental protection.

- 4 Using innovative management approaches in air quality by replacing the *Lambton Industry Meteorological Alert Regulation* (Reg. 350) with a Memorandum of Understanding with the Lambton Industrial Society, developing the concept of local airshed management contracts, and establishing pilot projects, including use of emissions reduction trading.
- 5 Replacing the *Hot Mix Asphalt Facilities Regulation* (Reg. 349) and the *Boilers Regulation* (Reg. 338) with Codes of Practice under standardized approval regulations.

APPROVALS

Each year, the Ministry issues over 8,500 approvals under the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* (OWRA). In addition, some 22,000 septic system approvals are issued annually by local Boards of Health under Part VIII of the EPA, and 7,000 licences are issued annually under the *Pesticides Act*. As a first step in streamlining the approvals process, the Ministry has introduced amendments to the EPA and the OWRA to provide for standardized approvals regulations. A "Standardized Approval Regulation" specifies conditions that must be met to qualify for exemption from a Certificate of Approval. Other reforms focus the activities requiring approval, encourage voluntary pollution prevention and promote the development of new technologies. The Ministry proposes to:

- 1 Remove the requirement for a Certificate of Approval for certain environmentally insignificant activities, such as small ventilation systems, and establish Standardized Approval Regulations for consistently controllable sources of pollutants.
- 2 Promote technological innovation, by enacting regulations to remove hearing requirements under the EPA and OWRA for new waste management technology demonstration projects.
- 3 Consult on the development of options for a revised fee structure for approvals, to enhance environmental protection and stimulate job-creating investment.
- 4 Establish pilot projects with industry to assess the feasibility of single-site approvals; consult on the concept of single-site approvals and invite expressions of interest in the pilot projects.
- 5 Encourage local involvement in the review and approval of local projects relating to concerns like noise, odours and dust; and establish a pilot project with a municipality to assess the feasibility of further transfer of the review function.
- 6 Consult on suggestions for improvements to the EPA Part VIII approvals program.

ENERGY

North America's electricity industry is undergoing immense change. Ontario Hydro faces increasing competitive pressures from all around the Great Lakes Basin and from the northeastern continental

transmission grid. In November 1995, the Government established the Advisory Committee on Competition in Ontario's Electricity System to study the issues, consult with stakeholders and consumers, and to make recommendations for achieving a safe, reliable and affordable electricity system that can meet the competitive challenges of the future.

The Advisory Committee recently released its report which makes recommendations on the structural, legislative, regulatory and ownership changes needed to ensure Ontario can continue to attract investment, create jobs, and compete globally. The report provides a framework for further discussions with consumers and industry stakeholders which will continue over the summer. Consideration of any changes to regulations under the *Power Corporations Act* will therefore take place as part of this parallel consultation process.

To ensure the currency and clarity of Ontario Energy Board regulations, the Ministry proposes to:

- 1 Remove all exemptions under the *OEB General Regulation* (Reg. 869) relating to transactions that have been completed.
- 2 Revoke the *OEB Rules of Procedure Regulation* (Reg. 870), once the OEB implements its rule-making powers under the *Statutory Powers Procedure Act*.
- 3 Consolidate three OEB regulations (Regs. 869, 870, 702) into one regulation.

- 4 Revoke the *Ontario Hydro Exemption Regulation* (Reg. 188/93), since it is obsolete.

To maintain consistent and up-to-date energy efficiency standards, the Ministry proposes to:

- 1 Amend the *Efficiency Standards Regulation* (Reg. 82/95) to add minimum efficiency standards for gas-fired room heaters, wall furnaces and fireplaces; and for fluorescent lamps that are primarily for use in area lighting; and,
- 2 Amend the *Efficiency Standards Regulation* (Reg. 82/95) to update existing standards for three products: electrically heated storage water heaters; parking lot and area dusk-to-dawn lighting; and for cobra-head type roadway lighting.
- 3 Revoke the *Water Heater Regulation* (Reg. 933) since it is now obsolete.

ENVIRONMENTAL ASSESSMENT

The Minister of Environment and Energy recently introduced a package of amendments to the *Environmental Assessment Act*. These amendments address concerns identified by municipal and private sector proponents and public interest groups, such as: the absence of specified timeframes for Government review and decision-making; the lack of formal public consultation requirements; the need to define the terms of reference for an environmental assessment study at an early stage; and the need to focus hearings on issues of environmental significance. To

continue to improve Ontario's environmental assessment process, the Ministry is currently proceeding with the following reforms:

- 1 Revoke 315 obsolete *EA Exemption Regulations*.
- 2 Release the revised *General EA Regulation*.
- 3 Draft new "Rules of Procedure" under the *Statutory Powers Procedure Act* and subsequently revoke the Environmental Assessment Board's regulation describing their rules of practice.

ENVIRONMENTAL BILL OF RIGHTS REGULATIONS

Approximately 2,500 notices of proposals were placed by the Ministry on the EBR Registry last year. These notices cover a wide variety of instruments ranging in significance from approvals for small ventilation systems to approvals for complex chemical or petrochemical plants. Environmental groups have indicated that the large number of instruments placed on the registry obscures matters of environmental significance. To address those concerns, the Ministry proposes to:

- 1 Revise the *EBR Classification of Proposals for Instruments Regulation* (Regulation 681/94) to remove notice requirements for proposals having little or no environmental impact or for which there is limited public interest relating to the registry posting.
- 2 Revise the *EBR General Regulation* (Reg. 73/94), to reflect the renaming of Ministries and Acts (administrative amendment).

PESTICIDES

Each year, the Ministry issues over 7,000 licences for pesticide exterminators and vendors, and classifies some 350 new pesticides products under the *Pesticides Act* and Regulation 914. The Ministry is proposing the following changes to ensure the safe use of pesticides to protect our health and the environment, to encourage integrated pest management (IPM) approaches and reduced pesticide use, and to eliminate regulatory requirements that do not have environmental benefits:

- 1 Replace the provincial pesticide classification system with an equally strong national pesticide classification system.
- 2 Streamline the licensing system and reduce the different types of pesticide licences from 53 to 15.
- 3 Introduce recertification every five years for licenced exterminators and new requirements for untrained assistants to take basic health and safety training.
- 4 Remove permit requirements for pesticide applications that pose little environmental risk.
- 5 Remove EBR registry requirements for pesticides with new active ingredients, since the federal government is implementing equally accessible consultation procedures.
- 6 Simplify insurance requirements for operators and require a minimum of \$1 million in comprehensive third party liability for all pest control businesses.
- 7 Upgrade training materials for pesticide exterminators to harmonize with recently adopted national standards.
- 8 Replace burial of pesticide containers with new requirements for recycling of empty commercial and agricultural plastic and metal pesticide containers.
- 9 Eliminate sections on the care of older pesticides that are no longer available.
- 10 Simplify public notification requirements to encourage integrated pest management and reduced pesticide use.
- 11 Consolidate and clarify requirements controlling use of fumigants.

SPILLS

To better focus the efforts of regulated parties and the Ministry on environmentally significant spills, the Ministry proposes to:

- 1 Revise the *Spills Regulation* (Reg. 360) to clarify reporting requirements and procedures to eliminate trivial and frivolous reporting.
- 2 Encourage industry to base their estimates of reportable spill quantities in contingency plans on an assessment of the likelihood of adverse environmental effects.

**TRAINING, CERTIFICATION,
LICENSING AND ACCREDITATION**

To streamline the process for delivery of training, certification, licensing and accreditation (TCLA) and to facilitate implementation of new requirements, the Ministry proposes to:

- 1 Create a new TCLA regulation which would assemble requirements from existing regulations and develop a framework for future initiatives. This may result in replacement of existing regulations (e.g. *Dry Cleaners Reg. 323* and *Water Works and Sewage Works Reg. 435*).
- 6 Consider expanding the definition of "waste derived fuel" to include non-hazardous solid wastes and to specify thermal energy value requirements.
- 7 Consolidate all waste management requirements into one regulation.
- 8 Harmonize federal and provincial definitions of "hazardous waste" to ensure strong, consistent and equitable standards.
- 9 Establish a simplified roster system for tracking small quantities of hazardous and liquid industrial waste.

WASTE MANAGEMENT

The Ministry of Environment and Energy has identified several areas where regulatory requirements for waste management can be modified to improve environmental protection and make waste management practices more efficient. The Ministry proposes to:

- 1 Designate standards and approval requirements according to four classes of facility, based on potential environmental risk.
- 2 Set comprehensive and specific standards for the design and operation of landfills.
- 3 Revise the definition of "recyclable material" to encourage innovative approaches to reuse and recycling.
- 4 Introduce 5 categories of fill based on risk and acceptable uses.
- 5 Expand the definition of "agricultural wastes" to include a number of off-site farm activities and to exclude hazardous and industrial liquid waste.
- 10 Simplify and standardize administrative requirements controlling storage and movement of PCBs; and set approval requirements for mobile PCB destruction facilities according to risk.
- 11 Focus Selected Waste and Pesticide Container Recycling Depot rules on standards that protect the environment.
- 12 Permit the collection of small quantities of other waste such as household hazardous waste at Selected Waste Depots.
- 13 Implement the improved definition of "biomedical waste".
- 14 Revoke obsolete regulations: 344 — *Disposable Containers for Milk*, 345 — *Disposable Paper Containers for Milk*, 348 — *Hauled Liquid Industrial Waste Disposal Sites*.
- 15 Amend *Municipal 3Rs Regulation* 101 to allow two-stream systems and to provide one list from which municipalities must choose seven or more Blue Box materials.

- 16 Seek input on revoking the *Waste and Packaging Audit and Reduction Workplan Regulations* (102 and 104).
- 17 Reduce approval requirements for original product manufacturers to set up "Manufacturer Controlled Networks".
- 18 Seek alternative approaches for promoting refillable containers.

WATER QUALITY

Ontario's water quality management system protects surface water, groundwater and drinking water under 17 regulations and numerous guidelines, objectives, instruments and programs. To improve water quality management, the Ministry proposes to:

- 1 Control municipal discharges by establishing a performance-based regulation for sewage treatment plants in cooperation with stakeholders.
- 2 Replace the *Marinas Regulation* (Reg. 351) with a voluntary Code of Environmental Practice. The regulation would be revoked only after successful implementation of the Code of Practice. The current level of environmental protection will be maintained by the *Discharge of Sewage from Pleasure Boats Regulation* (Reg. 343) which prohibits sewage discharge from pleasure boats.
- 3 Update the *Ground Source Heat Pumps Regulation* (Reg. 77-92) to restrict the use of methanol in ground source heat pumps, as safer heat transfer fluids are now available.

- 4 Remove the requirement in the *MISA Pulp and Paper Regulation* for the pulp and paper sector to submit reports on how to reach zero AOX by 2002 and remove the reference to a goal of zero AOX. Reduce routine MISA chronic toxicity testing requirements when sufficient data has been collected to analyse trends.
- 5 Remove MISA reporting and monitoring requirements for substances that are not used in a facility's industrial processes.
- 6 Reduce monitoring frequency for facilities that surpass effluent limits as an incentive to good performance.
- 8 Revise MISA Regulations to allow regulated facilities to store monitoring data using software of their choice. Summary data will be submitted to the Ministry in a Ministry approved electronic format using any software. Detailed data requested by the Ministry can be submitted in any format.
- 9 Coordinate MISA reporting requirements with the federal government.
- 10 Revise the *Wells Regulation* (Reg. 903) to increase the licensing fee, decrease the frequency of licence renewal, and require that the water well records be submitted in electronic format.

THE REGULATORY PROCESS

The Ministry proposes to:

- 1 Develop and implement a "Regulatory Code of Practice" to ensure the consistent application of Ontario's new Less Paper/More Jobs Test for all new environment and energy regulation.

Going Beyond Regulation

Regulation will have a strong and continuing role in environmental protection, where it provides an effective solution to problems and where costs are commensurate with benefits. Scientifically sound and well designed regulations and standards provide clear and uniform requirements for regulated parties. Good regulation provides the assurance of protection desired by the public and the level playing field required by the regulated community.

As the Ministry moves ahead, however, there is a need to build upon our regulatory base with mechanisms that are incentive based, providing encouragement for self-initiative, environmental stewardship, and continuous environmental improvement beyond the requirements of regulation. We need to combine a baseline of smart regulation with incentives for performance.

In this context, the Ministry will actively explore opportunities for pilot projects with business for greater use of third party accreditation, codes of practice, economic and market-based instruments, environmental management systems, performance agreements and performance-based standards.

While continuing to maintain high standards of environmental protection and promote energy efficiency, this comprehensive package of proposed regulatory reforms and non-regulatory measures will contribute to job creation, economic growth, better client service and lower costs.

The Ministry invites you to comment on the proposals in this paper. Your input is important to the sound reform of Ontario's environment and energy regulations.

How to get involved

How Can I Participate?

You can participate in the regulatory review process by responding to this consultation paper with written submissions. Written submissions should be sent to:

What Kind of Feedback is Most Useful?

- Regulatory Reform Project
Ministry of Environment and Energy
8th Floor
135 St. Clair Ave. W.
Toronto, Ontario
M4V 1P5

How Will My Input Affect the Decisions?

- Submissions may also be sent by fax to:
Regulatory Reform Project
Ministry of Environment and Energy
FAX: (416) 323 4346

The deadline for all written submissions is September 15, 1996.

Further information or additional copies of this report may be obtained by contacting the Ministry's Public Information Centre at (416) 325 4000 or 1 800 565 4923. This report may also be accessed through the Ministry's Internet Web site: <http://www.ene.gov.on.ca>

In particular, the Ministry is interested in hearing about:

- Your responses to specific reform proposals;
- Whether you agree with the objectives and direction of proposed reforms;
- Regulatory issues that you feel should be, but are not yet addressed;
- Your ideas about better ways to achieve or implement proposed reforms;
- Expressions of interest from parties willing to participate in pilot projects.

All submissions received in response to this paper are public documents and may be viewed at the above address. Ideas and comments will be used to develop the final set of reforms.

